IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3993 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

M S SHAH

Versus

STATE OF GUJARAT

Appearance:

MR MANISH R BHATT for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 24/04/2001

ORAL JUDGEMENT

1. Ms. Manisha Lavkumar, learned AGP appearing for the Respondents places on record a photo copy of the letter dated 23.4.2001 from the Additional Sales Tax

Commissioner to the Deputy Sales Tax Commissioner, Ahmedabad Division-I. The letter is taken on record.

2. The learned counsel for the petitioner seeks leave to add the Sales Tax Commissioner as Respondent No.4.

Leave as prayed for is granted. Notice of Rule to the newly added party returnable today. Ms. Manisha Lavkumar, learned AGP waives service of notice of Rule for the newly added party.

3. It appears that the petitioner's case was earlier not considered for permitting the petitioner to cross efficiency-bar and also for promotion to the higher post of Sr. Clerk when his juniors were promoted on account of pending departmental enquiries. The learned counsel for the petitioner states that during pendency of this petition, the departmental enquiries have come to an end by certain orders passed by the disciplinary authority and the appellate authority, which have been set-aside by the Gujarat Civil Service Tribunal and, that at present, no inquiry is pending against the petitioner.

4. It appears that the learned AGP is not in a position to dispute the above statements in view of the instructions being given to her on the basis of the letter dated 23.4.2001.

5. In view of the above, the respondents are directed to consider the petitioner's case for permitting the petitioner to cross efficiency-bar on the due date. The Respondents are also directed to consider the case of the petitioner for promotion to the post of Sr. Clerk and any further promotions to the higher post/s when the petitioner's juniors were promoted and, if the petitioner is found fit for promotion/s, the petitioner's case shall also be considered for deemed date/s of promotion in accordance with law.

6. The petition is accordingly partly allowed in terms of the aforesaid directions.

Rule is made absolute to the aforesaid extent with no order as to costs.

(M.S.Shah, J)

Jayanti*